

## REMARKS

Claims 1, 5, and 26 have been amended. Claims 2 and 22-24 have been cancelled. Claims 1, 3-21, and 25-26 are pending and under consideration.

Favorable reconsideration of this application, in light of the following discussion and in view of the present amendment, is respectfully requested.

This amendment is believed to place the application in condition for allowance, and entry therefore is respectfully requested. In the alternative, entry of this amendment is requested as placing the application in better condition for appeal by, at least, reducing the number of issues outstanding.

### Entry of Amendment under 37 C.F.R. § 1.116

The Applicant requests entry of this Rule 116 Response because the amendment does not significantly alter the scope of the claims and places the application at least into a better form for purposes of appeal. No new features or new issues are being raised.

The Manual of Patent Examining Procedures (M.P.E.P.) sets forth in Section 714.12 that “any amendment that would place the case either in condition for allowance or in better form for appeal may be entered.” Moreover, Section 714.13 sets forth that “the Proposed Amendment should be given sufficient consideration to determine whether the claims are in condition for allowance and/or whether the issues on appeal are simplified.” The M.P.E.P. further articulates that the reason for any non-entry should be explained expressly in the Advisory Action.

### **I. Rejections under 35 U.S.C. §§ 102/103**

In the Office Action, at pages 2-3, claims 1 and 26 were rejected under 35 USC § 102(b) as being anticipated by U.S. Patent No. 5,485,321 to Leonhardt et al.

Claim 1 has been amended to include the limitations of dependent claim 2 and, therefore, is now allowable as indicated by the Examiner on page 5 of the Office Action. Accordingly, withdrawal of the § 102(b) rejection of claim 1 is respectfully requested.

Claim 26 has been amended to recite “in a close process for said file, the end-of-file label read by said magnetic tape unit in response to the command from said command issuing apparatus is saved in a save area” and “in the open process for the file, the end-of-file label is transferred to the command issuing apparatus from the save area in response to a command directing to read said end-of-file label without making said magnetic tape unit carry out a real read operation.” Thus, it is submitted that claim 26 patentably distinguishes over the cited prior

art for at least the same reasons as amended independent claim 1. Accordingly, withdrawal of the § 102(b) rejection of claim 1 is respectfully requested

In the Office Action, at page 4, claim 6 was rejected under 35 USC § 103(a) as being unpatentable over Leonhardt et al. in view of U.S. Patent No. 5,034,914 to Osterlund.

As mentioned above, claim 1 has been amended to be allowable as indicated by the Examiner on page 5 of the Office Action. Claim 6 depends directly from claim 1, and includes all the features of claim 1, plus additional features that are not discussed or suggested by the references relied upon. Therefore, claim 6 patentably distinguishes over the references relied upon for at least the reasons noted above. Accordingly, withdrawal of the § 103(a) rejection is respectfully requested.

## **II. Allowable Subject Matter**

In the Office Action, at page 5, claims 2-5, 7-21, and 25 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

As mentioned above, claim 1 has been amended to be allowable as indicated by the Examiner on page 5 of the Office Action. Claims 3-5, 7-21, and 25 depend either directly or indirectly from claim 1, and include all the features of claim 1, plus additional features that are not discussed or suggested by the cited prior art. Therefore, claims 3-5, 7-21, and 25 patentably distinguish over the cited prior art for at least the reasons noted above. Thus, it is submitted that claims 2-5, 7-21, and 25 are in a condition suitable for allowance.

## **CONCLUSION**

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

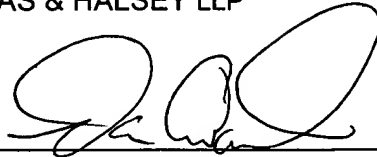
Serial No. 09/539,805

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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